

1 AN ACT concerning open meetings.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Open Meetings Act is amended by changing
5 Sections 1.02, 2.01, 2.05, and 2.06 and by adding Section 7 as
6 follows:

7 (5 ILCS 120/1.02) (from Ch. 102, par. 41.02)

8 Sec. 1.02. For the purposes of this Act:

9 "Meeting" means any gathering, whether in person or by
10 video or audio conference, telephone call, electronic means
11 (such as, without limitation, electronic mail, electronic
12 chat, and instant messaging), or other means of interactive
13 communication, of a majority of a quorum of the members of a
14 public body held for the purpose of discussing public business.

15 "Public body" includes all legislative, executive,
16 administrative or advisory bodies of the State, counties,
17 townships, cities, villages, incorporated towns, school
18 districts and all other municipal corporations, boards,
19 bureaus, committees or commissions of this State, and any
20 subsidiary bodies of any of the foregoing including but not
21 limited to committees and subcommittees which are supported in
22 whole or in part by tax revenue, or which expend tax revenue,
23 except the General Assembly and committees or commissions
24 thereof. "Public body" includes tourism boards and convention
25 or civic center boards located in counties that are contiguous
26 to the Mississippi River with populations of more than 250,000
27 but less than 300,000. "Public body" includes the Health
28 Facilities Planning Board. "Public body" does not include a
29 child death review team or the Illinois Child Death Review
30 Teams Executive Council established under the Child Death
31 Review Team Act or an ethics commission acting under the State
32 Officials and Employees Ethics Act.

1 (Source: P.A. 92-468, eff. 8-22-01; 93-617, eff. 12-9-03.)

2 (5 ILCS 120/2.01) (from Ch. 102, par. 42.01)

3 Sec. 2.01. All meetings required by this Act to be public
4 shall be held at specified times and places which are
5 convenient and open to the public. No meeting required by this
6 Act to be public shall be held on a legal holiday unless the
7 regular meeting day falls on that holiday.

8 A quorum of members of a public body must be physically
9 present at the location of an open meeting. Other members who
10 are not physically present at the open meeting may participate
11 in the meeting and vote on all matters, if they are voting
12 members, by means of a video or audio conference; provided,
13 however, that the requirement that a quorum be physically
14 present at the location of an open meeting shall not apply to
15 State advisory boards or bodies that do not have authority to
16 make binding recommendations or determinations or to take any
17 other substantive action.

18 (Source: P.A. 88-621, eff. 1-1-95.)

19 (5 ILCS 120/2.05) (from Ch. 102, par. 42.05)

20 Sec. 2.05. Recording meetings. Subject to the provisions of
21 Section 8-701 of the Code of Civil Procedure ~~"An Act in~~
22 ~~relation to the rights of witnesses at proceedings conducted by~~
23 ~~a court, commission, administrative agency or other tribunal in~~
24 ~~this State which are televised or broadcast or at which motion~~
25 ~~pictures are taken", approved July 14, 1953, as amended, any~~
26 person may record the proceedings at meetings required to be
27 open by this Act by tape, film or other means. The authority
28 holding the meeting shall prescribe reasonable rules to govern
29 the right to make such recordings.

30 If a witness at any meeting required to be open by this Act
31 which is conducted by a commission, administrative agency or
32 other tribunal, refuses to testify on the grounds that he may
33 not be compelled to testify if any portion of his testimony is
34 to be broadcast or televised or if motion pictures are to be

1 taken of him while he is testifying, the authority holding the
2 meeting shall prohibit such recording during the testimony of
3 the witness. Nothing in this Section shall be construed to
4 extend the right to refuse to testify at any meeting not
5 subject to the provisions of Section 8-701 of the Code of Civil
6 Procedure ~~"An Act in relation to the rights of witnesses at~~
7 ~~proceedings conducted by a court, commission, administrative~~
8 ~~agency or other tribunal in this State which are televised or~~
9 ~~broadcast or at which motion pictures are taken", approved July~~
10 ~~14, 1953, as amended.~~

11 (Source: P.A. 82-378.)

12 (5 ILCS 120/2.06) (from Ch. 102, par. 42.06)

13 Sec. 2.06. Minutes. (a) All public bodies shall keep
14 written minutes of all their meetings, whether open or closed,
15 and a verbatim record of all their closed meetings in the form
16 of an audio or video recording. Minutes shall include, but need
17 not be limited to:

18 (1) the date, time and place of the meeting;

19 (2) the members of the public body recorded as either
20 present or absent and whether the members were physically
21 present or present by means of video or audio conference;

22 and

23 (3) a summary of discussion on all matters proposed,
24 deliberated, or decided, and a record of any votes taken.

25 (b) The minutes of meetings open to the public shall be
26 available for public inspection within 7 days of the approval
27 of such minutes by the public body.

28 (c) The verbatim record may be destroyed without
29 notification to or the approval of a records commission or the
30 State Archivist under the Local Records Act or the State
31 Records Act no less than 18 months after the completion of the
32 meeting recorded but only after:

33 (1) the public body approves the destruction of a
34 particular recording; and

35 (2) the public body approves minutes of the closed

1 meeting that meet the written minutes requirements of
2 subsection (a) of this Section.

3 (d) Each public body shall periodically, but no less than
4 semi-annually, meet to review minutes of all closed meetings.
5 At such meetings a determination shall be made, and reported in
6 an open session that (1) the need for confidentiality still
7 exists as to all or part of those minutes or (2) that the
8 minutes or portions thereof no longer require confidential
9 treatment and are available for public inspection.

10 (e) Unless the public body has made a determination that
11 the verbatim recording no longer requires confidential
12 treatment or otherwise consents to disclosure, the verbatim
13 record of a meeting closed to the public shall not be open for
14 public inspection or subject to discovery in any administrative
15 or judicial proceeding other than one brought to enforce this
16 Act. In the case of a civil action brought to enforce this Act,
17 the court, if the judge believes such an examination is
18 necessary, must conduct such in camera examination of the
19 verbatim record as it finds appropriate in order to determine
20 whether there has been a violation of this Act. In the case of
21 a criminal proceeding, the court may conduct an examination in
22 order to determine what portions, if any, must be made
23 available to the parties for use as evidence in the
24 prosecution. Any such initial inspection must be held in
25 camera. If the court determines that a complaint or suit
26 brought for noncompliance under this Act is valid it may, for
27 the purposes of discovery, redact from the minutes of the
28 meeting closed to the public any information deemed to qualify
29 under the attorney-client privilege. The provisions of this
30 subsection do not supersede the privacy or confidentiality
31 provisions of State or federal law.

32 (f) Minutes of meetings closed to the public shall be
33 available only after the public body determines that it is no
34 longer necessary to protect the public interest or the privacy
35 of an individual by keeping them confidential.

36 (Source: P.A. 93-523, eff. 1-1-04; 93-974, eff. 1-1-05.)

1 (5 ILCS 120/7 new)

2 Sec. 7. Attendance by a means other than physical presence.

3 (a) If a quorum of the members of the public body is
4 physically present at the place designated in the notice of the
5 meeting, a majority of the public body may allow a member of
6 that body to attend the meeting by other means if the member is
7 prevented from physically attending because of: (i) personal
8 illness or disability; (ii) employment purposes or the business
9 of the public body; or (iii) a family or other emergency.
10 "Other means" is by video or audio conference.

11 (b) If a member wishes to attend a meeting by other means,
12 the member must notify the recording secretary or clerk of the
13 public body before the meeting unless advance notice is
14 impractical.

15 (c) A majority of the public body may allow a member to
16 attend a meeting by other means only in accordance with and to
17 the extent allowed by rules adopted by the public body. The
18 rules must conform to the requirements and restrictions of this
19 Section, may further limit the extent to which attendance by
20 other means is allowed, and may provide for the giving of
21 additional notice to the public or further facilitate public
22 access to meetings.

23 (d) The limitations of this Section shall not apply to
24 State advisory boards or bodies that do not have authority to
25 make binding recommendations or determinations or to take any
26 other substantive action. State advisory boards or bodies,
27 however, may permit members to attend meetings by other means
28 only in accordance with and to the extent allowed by specific
29 procedural rules adopted by the body.

30 Section 10. The Environmental Protection Act is amended by
31 changing Section 5 as follows:

32 (415 ILCS 5/5) (from Ch. 111 1/2, par. 1005)

33 Sec. 5. Pollution Control Board.

1 (a) There is hereby created an independent board to be
2 known as the Pollution Control Board.

3 Until July 1, 2003 or when all of the new members to be
4 initially appointed under this amendatory Act of the 93rd
5 General Assembly have been appointed by the Governor, whichever
6 occurs later, the Board shall consist of 7 technically
7 qualified members, no more than 4 of whom may be of the same
8 political party, to be appointed by the Governor with the
9 advice and consent of the Senate.

10 The term of each appointed member of the Board who is in
11 office on June 30, 2003 shall terminate at the close of
12 business on that date or when all of the new members to be
13 initially appointed under this amendatory Act of the 93rd
14 General Assembly have been appointed by the Governor, whichever
15 occurs later.

16 Beginning on July 1, 2003 or when all of the new members to
17 be initially appointed under this amendatory Act of the 93rd
18 General Assembly have been appointed by the Governor, whichever
19 occurs later, the Board shall consist of 5 technically
20 qualified members, no more than 3 of whom may be of the same
21 political party, to be appointed by the Governor with the
22 advice and consent of the Senate. Members shall have verifiable
23 technical, academic, or actual experience in the field of
24 pollution control or environmental law and regulation.

25 Of the members initially appointed pursuant to this
26 amendatory Act of the 93rd General Assembly, one shall be
27 appointed for a term ending July 1, 2004, 2 shall be appointed
28 for terms ending July 1, 2005, and 2 shall be appointed for
29 terms ending July 1, 2006. Thereafter, all members shall hold
30 office for 3 years from the first day of July in the year in
31 which they were appointed, except in case of an appointment to
32 fill a vacancy. In case of a vacancy in the office when the
33 Senate is not in session, the Governor may make a temporary
34 appointment until the next meeting of the Senate, when he or
35 she shall nominate some person to fill such office; and any
36 person so nominated, who is confirmed by the Senate, shall hold

1 the office during the remainder of the term.

2 Members of the Board shall hold office until their
3 respective successors have been appointed and qualified. Any
4 member may resign from office, such resignation to take effect
5 when a successor has been appointed and has qualified.

6 Board members shall be paid \$37,000 per year or an amount
7 set by the Compensation Review Board, whichever is greater, and
8 the Chairman shall be paid \$43,000 per year or an amount set by
9 the Compensation Review Board, whichever is greater. Each
10 member shall devote his or her entire time to the duties of the
11 office, and shall hold no other office or position of profit,
12 nor engage in any other business, employment, or vocation. Each
13 member shall be reimbursed for expenses necessarily incurred
14 and shall make a financial disclosure upon appointment.

15 Each Board member may employ one secretary and one
16 assistant, and the Chairman one secretary and 2 assistants. The
17 Board also may employ and compensate hearing officers to
18 preside at hearings under this Act, and such other personnel as
19 may be necessary. Hearing officers shall be attorneys licensed
20 to practice law in Illinois.

21 The Board may have an Executive Director; if so, the
22 Executive Director shall be appointed by the Governor with the
23 advice and consent of the Senate. The salary and duties of the
24 Executive Director shall be fixed by the Board.

25 The Governor shall designate one Board member to be
26 Chairman, who shall serve at the pleasure of the Governor.

27 The Board shall hold at least one meeting each month and
28 such additional meetings as may be prescribed by Board rules.
29 In addition, special meetings may be called by the Chairman or
30 by any 2 Board members, upon delivery of 24 hours written
31 notice to the office of each member. All Board meetings shall
32 be open to the public, and public notice of all meetings shall
33 be given at least 24 hours in advance of each meeting. In
34 emergency situations in which a majority of the Board certifies
35 that exigencies of time require the requirements of public
36 notice and of 24 hour written notice to members may be

1 dispensed with, and Board members shall receive such notice as
2 is reasonable under the circumstances.

3 If there is no vacancy on the Board, 3 4 members of the
4 Board shall constitute a quorum to transact business;
5 otherwise, a majority of the Board shall constitute a quorum to
6 transact business, and no vacancy shall impair the right of the
7 remaining members to exercise all of the powers of the Board.
8 Every action approved by a majority of the members of the Board
9 shall be deemed to be the action of the Board. The Board shall
10 keep a complete and accurate record of all its meetings.

11 (b) The Board shall determine, define and implement the
12 environmental control standards applicable in the State of
13 Illinois and may adopt rules and regulations in accordance with
14 Title VII of this Act.

15 (c) The Board shall have authority to act for the State in
16 regard to the adoption of standards for submission to the
17 United States under any federal law respecting environmental
18 protection. Such standards shall be adopted in accordance with
19 Title VII of the Act and upon adoption shall be forwarded to
20 the Environmental Protection Agency for submission to the
21 United States pursuant to subsections (l) and (m) of Section 4
22 of this Act. Nothing in this paragraph shall limit the
23 discretion of the Governor to delegate authority granted to the
24 Governor under any federal law.

25 (d) The Board shall have authority to conduct proceedings
26 upon complaints charging violations of this Act, any rule or
27 regulation adopted under this Act, any permit or term or
28 condition of a permit, or any Board order; upon administrative
29 citations; upon petitions for variances or adjusted standards;
30 upon petitions for review of the Agency's final determinations
31 on permit applications in accordance with Title X of this Act;
32 upon petitions to remove seals under Section 34 of this Act;
33 and upon other petitions for review of final determinations
34 which are made pursuant to this Act or Board rule and which
35 involve a subject which the Board is authorized to regulate.
36 The Board may also conduct other proceedings as may be provided

1 by this Act or any other statute or rule.

2 (e) In connection with any proceeding pursuant to
3 subsection (b) or (d) of this Section, the Board may subpoena
4 and compel the attendance of witnesses and the production of
5 evidence reasonably necessary to resolution of the matter under
6 consideration. The Board shall issue such subpoenas upon the
7 request of any party to a proceeding under subsection (d) of
8 this Section or upon its own motion.

9 (f) The Board may prescribe reasonable fees for permits
10 required pursuant to this Act. Such fees in the aggregate may
11 not exceed the total cost to the Agency for its inspection and
12 permit systems. The Board may not prescribe any permit fees
13 which are different in amount from those established by this
14 Act.

15 (Source: P.A. 92-574, eff. 6-26-02; 93-152, eff. 7-10-03;
16 93-509, eff. 8-11-03; revised 9-11-03.)